

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BILLY CEPERO,

Petitioner,

v.

BRIAN WILLIAM, et al.,

Respondents.

Case No. 2:14-cv-01396-MMD-GWF

ORDER

On March 11, 2015, this Court granted petitioner Billy Cepero's motion to stay and abey his *pro se* habeas corpus petition under 28 U.S.C. § 2254 until his state habeas petition was resolved (dkt. no. 8). The stay was conditioned upon Cepero returning to federal court with a motion to reopen the case within forty-five (45) days of the conclusion of his state-court proceedings.

On December 16, 2015, retained counsel for Cepero entered a notice of appearance in this matter and filed a motion to reopen the case (dkt. nos. 9, 10). However, counsel failed to attach a proposed amended petition or indicate that Cepero wished to proceed with the petition already on file in this case. Respondents opposed the motion to reopen the case on several bases, including that petitioner had not submitted a proposed amended petition (dkt. no. 11). Cepero's counsel filed a reply in which he acknowledged that he had not filed a proposed amended petition and attached what he styled a proposed amended petition as well as exhibits (dkt. no. 12).

The purported amended petition sets forth no grounds for habeas relief. It instead appears to be more of an anticipatory opposition to a motion to dismiss the petition as

1 time-barred. However, no first-amended petition has been proffered to which
2 respondents can file a responsive pleading, including a motion to dismiss. Accordingly,
3 Cepero's motion to reopen the case (dkt. no. 10) is denied without prejudice. Within
4 thirty (30) days of the date of this order, counsel for petitioner must file a new motion to
5 reopen the case and attach a proposed first-amended petition. The petition must set
6 forth all grounds for federal habeas relief.

7 Finally, counsel for petitioner is expressly advised that any state court record
8 exhibits must be filed with a separate index of exhibits identifying the exhibits by
9 number. The CM/ECF attachments that are filed further must be identified by the
10 number or numbers of the exhibits in the attachment.

11 It is therefore ordered that petitioner's motion to reopen the case (dkt. no. 10) is
12 denied without prejudice as set forth in this order.

13 DATED THIS 13th day of April 2016.



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16 MIRANDA M. DU
UNITED STATES DISTRICT JUDGE
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